

TOWN AND COUNTRY PLANNING DEPARTMENT

(URBAN ESTATES)

The 17th June, 1967

No. DUE-LA/3392.—Whereas it appears to the Governor of Haryana that land is likely to be required to be taken by the Government, at public expense, for a public purpose, namely, for the planned development of the area of village Gurgaon in the tehsil and district Gurgaon, it is hereby notified that land in the locality described below is likely to be required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana is pleased to authorise the officers for the time being engaged in the undertaking, with their servants and workmen, to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested who has any objection to the acquisition of any land in the locality, may, within thirty days of the publication of this notification, file an objection in writing before the Land Acquisition Collector, Directorate of Urban Estates, Haryana, Chandigarh.

SPECIFICATION

| District | Tehsil | Locality/village Hadbast No. | Boundary/Description |
|----------|---------|---------------------------------|--|
| Gurgaon | Gurgaon | Gurgaon 55 | Starting from north western corner of Khasra No. 323 then running alongwith the Railway boundary towards south up to the south western corner of Khasra No. 409; then alongwith the boundary of the Khasra No. 409 towards east and then running alongwith the Northern Boundary of Khasra No. 1451 (Railway Road) up to the south-east corner of Khasra No. 1444; then running alongwith the Northern Boundary of the road comprising Khasra No. 1450 up to the south-eastern corner of Khasra No. 1546; then from this junction point straight away towards west up to the starting point. |

ISHWAR CHANDRA, Secy.

LABOUR AND EMPLOYMENT DEPARTMENT

The 15th/17th June, 1967

No. 4996-3Lab-67/17147.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and management of M/s Seth Kanahiya Lal Iron and Steel Co., Manesar Road, Gurgaon.

BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 17 of 1967

between

The Workmen and the Management of M/s Seth Kanahiya Lal Iron and Steel Co., Manesar Road, Gurgaon.

Present:

Shri C.B. Kaushik, General Secretary, Engineering Mazdoor Union (Regd.), Gurgaon on behalf of the workmen.

Shri R.S. Lakhotia on behalf of the management.

AWARD

An industrial dispute having arisen between the workmen and the management of M/s Seth Kanahiya Lal Iron and Steel Co., Manesar Road, Gurgaon, the Government of Haryana by means of their gazette notification No. 110-SF-III-Lab-67/ dated

3rd March, 1967 and in exercise of the powers conferred on them by Section 10(1) (c) read with the proviso to that sub-section of the Industrial Disputes Act, 1947 have referred to this Court for adjudication the matter mentioned below :—

Whether the workmen are entitled to the grant of bonus for the year 1955-56 ?

If so, what should be its quantum and terms and conditions of its payment ?

Usual notices were issued to the parties and in response thereto the workmen filed a statement of their claim and the management filed their written statement denying the claim of the workmen. The case was fixed for hearing before this Court on 18th April, 1967. On that date the parties got an adjournment to enable them to arrive at a settlement. The case was accordingly adjourned to 26th May, 1967. At the hearing on 26th May, 1967, Shri C.B. Kaushik, General Secretary, Engineering Mazdoor Union, Regd., Gurgaon was present on behalf of the workmen. Shri R.S. Lakhotia was present on behalf of the management. These authorised representatives of the parties stated that a settlement of the industrial dispute in question had been arrived at between the parties. The statements of Shri C.B. Kaushik on behalf of the workmen and Shri R.S. Lakhotia on behalf of the management containing the terms of that settlement were recorded by this Court on 26th May, 1967. These statements are reproduced below :—

Statement of Shri R.S. Lakhotia on behalf of the management on S.A.

The parties have arrived at a settlement. Our financial year coincides with the English Calendar year, i.e., our financial year is from 1st January to 31st December. We have agreed to pay bonus to our workmen for the two financial years 1965 and 1966 at the rate of 5 per cent of earned wages in each of these two years. An award may be given accordingly.

Statement of Shri C.B. Kaushik on behalf of the workmen on S.A.

I have heard the statement made by Shri R.S. Lakhotia on behalf of the management. It is correct. An award may be made accordingly.

I make this award in terms of the aforesaid statements of the authorised representatives of the parties. The management would pay to their workmen bonus for each of the two financial years 1965 and 1966 at 5 per cent of the earned wages. The financial year of the respondent concern coincides with the English Calendar year, i.e., from 4th January to 31st December. There will be no order as to costs in this case.

This award is submitted to the Government of Haryana, Department of Labour as required under Section 15 of the Industrial Disputes Act, 1947.

The 1st June, 1967

HANS RAJ GUPTA,
Presiding Officer,
Labour Court, Rohtak.

No. 5151-3Lab-67/17149.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana in respect of the dispute between the workmen and management of M/s Goodyear India Ltd., Ballabgarh.

BEFORE SHRI K.L. GOSAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, CHANDIGARH

Reference No. 40 of 1966

between

The Workmen and the Management of M/s Goodyear India Ltd., Ballabgarh.
Present.

Shri Brijbans Kishore and Shri K.P. Aggarwal for the management.
Shri G.C. Joshi for the workmen.

AWARD

M/s Goodyear India Ltd., Ballabgarh paid to their workmen for the year 1965 profit bonus at the rate of 20 per cent of the wages of each of them. No dispute was or could possibly be raised with respect to it by the workmen who were being paid on monthly rates. There is, however, good percentage of workmen in that concern who are working on the basis of piece rates. The management had fixed a job rate for each of their piece rated workmen, and paid bonus to each of them on the basis of the said job rate. The workmen served a demand notice on the management that the piece rated workmen were entitled to receive bonus on the basis of the wages actually earned by them and not merely on the basis of the wages calculated as per their job rates. The said demand notice having not been complied

with and the conciliation proceedings in the matter having presumably failed, the Punjab Government made a reference of the said dispute to the Industrial Tribunal, Punjab by means of their notification No. 572-SF-III-Lab-1-66/25315, dated 24th August, 1966. The item of dispute as mentioned in the said notification is under:—

“Whether the piece-rate earnings at present paid to workmen are incentive bonus or part of the Wage? Should the management pay bonus to workmen for the year 1965 at 20 per cent of wages including these earnings. ?

The Industrial Tribunal, Punjab issued usual notices to the parties and in response to the same the workmen filed their statement of claims, and the management filed their written statement to the same. Before, however, any further proceedings could be taken in the case the Punjab Re-organisation Act 1966 came into force and by reason of Section 93 of the said Act the case stood transferred to this Tribunal.

Only one issue arose from the pleadings of the parties and it was precisely the same as the item of dispute mentioned in the notification of the Government. This issue was framed by me on 8th March, 1967 and parties were directed to produce evidence in respect of the same. After the conclusion of the evidence, the representative of the parties also addressed their arguments to me.

The case of the management is that they calculated job rates for each piece rated workman by taking the accepted performance level of 100 per cent for a normal man working at a normal pace within specified normal time. But they actually paid the worker 120 per cent of the job rate. It is their case that the time for each job is fixed scientifically preceded by time and motion study technique. The worker is paid for this time irrespective of the fact that he produces the required unit in a lesser time. According to them the workers who work on higher incentive can save the time from the standard time allowed on the job and make more pieces and thereby earn more money. It is alleged by them that in case a worker is unable to give proper production due to reasons beyond his control, his job rate is guaranteed to him i.e., if there is (1) no stock, (2) machine break down, (3) electricity or air failure etc. and the worker is unable to produce, he will be paid his job base rate per hour irrespective of the production which can be nil during this period. In the written statement they have given instances to make their point clear. They say that their base rate is 1.16 per hour but the piece rate fixed by them is 1.392 per hour and this piece rate is termed by them as an incentive rate. They have quoted five examples in their written statement with a view to elucidate their point and they are:—

- (i) now a worker who works at a normal acceptable pace will make 15 tyres in a working shift of $7\frac{1}{2}$ hours and his wages will be $15 \times 30 \text{ minutes} = 7\frac{1}{2} \text{ hour} \times \text{Rs } 1.392 = \text{Rs } 10.44$ i.e. 20 per cent more than this job base rate of $7\frac{1}{2} \text{ hours} \times \text{Rs } 1.16 = \text{Rs } 8.70$ per shift.
- (ii) If in the 2nd case the worker applies more incentive and makes 20 tyres in a working shift of $7\frac{1}{2}$ hours his wages will be $20 \times 30 \text{ minutes} = 10 \text{ hours} \times \text{Rs } 1.392 = 13.92$ for the same shift though he has worked the same $7\frac{1}{2}$ hours against his job base rate of Rs 8.70 per shift, i.e., 60 over his job base rate.
- (iii) In 3rd case where the worker is working at a lower incentive pace and makes 13 tyres in a shift of $7\frac{1}{2}$ hours he will also be paid $13 \times 30 \text{ minutes} = 6.5 \text{ hours} \times \text{Rs } 1.392 = \text{Rs } 9.048$ for the same shift against Rs 8.70 per shift job base rate i.e. 4 percent over his job base rate.
- (iv) Let us take a case of a worker who, due to lack of material, power, etc. is not able to work on incentive. He will be paid $\text{Rs } 16 \times 7\frac{1}{2} \text{ hours} = \text{Rs } 8.70$ for the shift irrespective of the production.
- (v) If a worker works on incentive for 5 hours and builds 12 tyres and for the rest of $2\frac{1}{2}$ hours he could not do any work due to power breakdown etc. his wages will be $12 \times 30 \text{ minutes} = 6 \text{ hours} \times \text{Rs } 1.392 = \text{Rs } 8.352$ plus Power Breakdown period $2\frac{1}{2} \text{ hours} \times \text{Rs } 1.16 = \text{Rs } 2.900$, for a total of Rs 11.252. It indicates that for the period he had put in incentive efforts while working he earned wages for 6 hours against 5 hours actual work besides the wages for idle time.”

The case of the workmen on the other hand is that piece rates are fixed by the management and it depends upon the capability of each of the workmen as to how much work he can perform. If he performs more work he is paid more according to the same piece rates. If, however, a workman is unable to give proper production due to power breakdown or any other reason beyond the control of the workman, the management pay to him the minimum job rate which is in a way a guaranteed payment. If for reasons which are within his control the workman produces less he is paid less. According to the workmen, the management issues slips to each of the workmen showing the regular earnings, overtime, premium, night allowance tea allowance and other allowances etc. of each of them. The workmen have

produced three such slips with a view to illustrate their point and I have exhibited them as A 1 to A 3. It is a common case of the parties that in the column of regular earnings in each slip the amount entered by the management includes the total earnings of the workman calculated on the piece rates but not including any overtime or night allowance etc. It is urged by the workmen that their real wages are those which are shown in the slips under the head "Regular earnings" and that the bonus paid to them must be calculated on the bases of the said wages and not merely on a hypothetical wage rate which the management have chosen to call the "job rate". Taking the first example quoted in the written statement of the management and reproduced by me above, the case of the workmen is that the workmen is entitled to take his wages to be Rs 10.40 and not merely Rs 8.70. The claim is based on the fact that he has actually earned Rs 10.40 and this must be taken to be his wages. In the second example the workman is entitled to take Rs 13.92 as the wages which should be taken into consideration while calculating the bonus. It is strenuously urged by the workmen that there is no question of an incentive bonus in piece rates which have been allowed to them. It may be that the management fixed the piece rates at a slightly higher level but then they are the rates according to which the wages of the piece rated workmen have to be calculated. The management rely on the definition of "Salary or Wages" as given in sub-section 21 of Section 2 of the Payment of Bonus Act 1965. This Sub-clause reads as under:—

(21) "Salary or Wages" means all remuneration (other than remuneration in respect of over time work) capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled be payable to an employee in respect of this employment or of work done in such employment and includes dearness allowance (that is to paid to an employee on account of a rise in the cost of living), but does not include—

- (i)
- (ii)
- (iii)
- (iv) Any bonus (including incentive, production and attendance bonus);
- (v)
- (vi)
- (vii)

Before recording evidence I thought it fit to record the statement of the representative of the parties with a view to elucidate the exact dispute. After the said statement had been recorded the representative of the workmen did not feel the necessity of producing any evidence but the management produced their personnel manager as their witness. After going through the statements of the parties and evidence of Mr. Hollinger, I am definitely of the opinion that the workmen are entitled to bonus on the basis of the total wages which each of them has earned during the year in question. I do not find any justification for introducing in the system of wages any element of incentive bonus. It is quite clear to me that the management have fixed certain piece rates and they pay to each of their workmen wages calculated on the basis of the said rates. If a workman puts in less work he obviously gets less payment and if he puts in more work he gets more payment. The calculation of wages is made on the basis of the same piece rates which have been fixed by the management for each job. It is not the case of the management that if a workman puts more work he is paid on the basis of some higher piece rates. It is true that the management have guaranteed certain payment to every workman provided he has not been able to earn even the job rate for reasons beyond his control. This however, is quite just because the workman who has not been able to give production for reasons of breakdown of power or for certain other reasons over which he had not control must be entitled to be compensated by the management through whose default he actually suffers. This compensation is fixed by the management in the form of a job rate. I fail to understand how the case is in any way covered by clause 4 of sub-section 21 of section 2 of the Payment of Bonus Act, 1965. It is significant that in the slips which the management issue to each workman every month, the column of regular earnings includes the entire wages earned by each workman irrespective of the fact whether it is more or less than the job rate. It is not denied that in the calculation for the deduction of provident fund the entire amount of wages of each workman is taken into consideration and same is the case when the payment is to be made to any workman on account of leave period. Merely because the management have chosen to call the wages for the extra work as incentive wages or merely because they encourage the workmen to earn more by putting in harder work, they cannot term the extra wages as an incentive bonus and deprive the workmen of profit bonus on the basis of the same. I think the demand of the workmen is fully justified and I would, therefore, direct the management to pay to each of the piece-rated workmen the amount of bonus calculated on the basis of the entire wages earned by him irrespective of what the job rate is. The amount of wages

as entered in the column of regular earnings in the pay slips of each of the workmen will for this purpose be taken into consideration. The management will pay the amount of bonus calculated as above to each of their piece-rated workmen within a period of two months from the publication of this award in the *Government gazette*. The amount already paid to each of them will however, be adjusted in the said payment. Nor order as to costs.

Dated 8th June, 1967.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 697, dated Chandigarh, the 8th June, 1967.

The award be submitted to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required by Section 15 of the Industrial Disputes Act, 1947.

K. L. GOSAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Chandigarh.

No. 5005-3Lab-67/17151.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Super Seal India (P), Ltd., Faridabad:—

BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

REFERENCE No. 25 OF 1967

Between

THE WORKMEN AND THE MANAGEMENT OF M/S SUPER SEAL INDIA (P), LTD., MATHURA ROAD, FARIDABAD

Present.—

Shri Sukhan, claimant in person.

Shri J.P. Verma, Personal Officer of the respondent concern on behalf of the management.

AWARD

An industrial dispute having arisen between the workmen and the management of M/s Super Seal India (P) Ltd., Mathura Road, Faridabad, the Government of Haryana by means of their gazette notification No. 129-SF-III-67/dated 3rd March, 1967 and in exercise of the powers conferred on them by Section 10(1) of the Industrial Disputes Act, 1947 have referred to this Court for adjudication the matter mentioned below:—

Whether the action of the management in terminating the service of Shri Sukhan is justified and in order? If not, to what relief the workman is entitled?

The endorsements on the reference order of the Government mentioned above show that a copy of the reference order was sent to the Engineering Mazdoor Union, Faridabad which union had served the demand notice on the management. Notice under registered A.D. cover for 17th April, 1967 was sent to the management as well as the General Secretary, Engineering Mazdoor Union, Faridabad. This notice was duly served on the parties and acknowledgement of the notice sent to the General Secretary, Engineering Mazdoor Union, Faridabad, received back from the postal authorities is on record. Moreover a statement of claim signed and verified by one Shri A.R. Handa has also been received in this case. That statement is dated 11th April, 1967 and was received in this office on 14th April, 1967. Shri A.R. Handa is said to be an office bearer of Engineering Mazdoor Union, Faridabad. At the hearing on 17th April, 1967, the management were present but no one was present on behalf of the workmen. Therefore, *ex parte* proceedings under rule 22 of the Industrial Disputes (Punjab) Rules, 1958, were taken against the workmen on that date. The management filed their written statement but wanted a short adjournment to enable them to file a rejoinder to the statement of claim sent by Shri A.R. Handa and referred to above. The case was accordingly adjourned on 17th April, 1967 to 2nd May, 1967. On 2nd May, 1967 the management were present but no one was again present on behalf of the workmen. The management filed their rejoinder to the statement of claim of Shri A.R. Handa.

The case as set out in the statement of claim dated 11th April, 1967 of Shri A.R. Handa is that the claimant Shri Sukhan was ill during the period 24th September, 1966 to 7th October, 1966 and, therefore, could not be on duty during this period. It is pleaded that

he reported for duty on 8th October, 1966 along with a medical certificate of sickness for the above period and also a medical certificate of fitness. It is pleaded that the management did not take him on duty and told him that his name had been struck off under the provisions of the certified standing orders of the respondent factory. It has been further pleaded that the action of the management is wrongful, *mala fide* and illegal. The management in their written statement and in their rejoinder to the statement of claim filed by Shri A.R. Handa denied that the claimant Shri Sukhan reported for duty on 8th October, 1966 with any medical or fitness certificate. They have pleaded that he was absent from duty without permission or leave for the period 24th September, 1966 to 8th October, 1966 and the management struck off his name from their rolls under clause 27(4) of the certified standing orders applicable to the respondent factory. They have pleaded that their action is *bona fide* and the claimant Shri Sukhan is not entitled to any relief. They also raised a preliminary objection that the present dispute is not an industrial dispute within the meaning of the Industrial Disputes Act, 1947.

The following two issues were framed in the case on 2nd May, 1967 and the case was adjourned for the evidence and arguments of both the parties for 25th May, 1967.

- (1) Whether the present dispute is not an industrial dispute ?
- (2) Whether the action of the management in terminating the service of Shri Sukhan is justified and in order ? If not, to what relief the workman is entitled ?

At the hearing on 25th May, 1967 no one was present on behalf of the union. Shri Sukhan claimant was, however, present in person. Shri V.P. Verma Personnel Officer of the respondent concern was present on behalf of the management. The evidence of the parties was recorded on that date and arguments heard in the case. My findings on the above two issues are given below :—

Issue No. 1

This issue was not pressed by the management. No evidence was led show how the dispute was not an industrial dispute. Under the amended law espousal by a substantial number of workmen of the respondent concern is not now necessary. Even an individual can raise a dispute regarding the termination of his services and that dispute is to be regarded as an industrial dispute within the meaning of the Industrial Dispute Act, 1947. Issue No. 1 is, therefore, decided against the management.

Issue No. 2

The management have produced ample documentary evidence to show that the claimant Shri Sukhan was absent from duty without leave or permission for the period 24th September, 1966 to 8th October, 1966. Exhibits R/1 and R/2 are relevant extracts from the attendance register of the respondent factory. These show that the claimant was absent for the above period. Exhibit R/3 to R/15 are the daily absentee statements sent by the Time-office of the respondent company to the Personnel Officer. These statements also prove that the claimant Shri Sukhan was absent without leave. Exhibit R/19 is the report of the Time-keeper of the respondent factory. This report is dated 3rd October, 1966 and states that Shri Sukhan had been absenting himself from duty continuously since 24th September, 1966, without any leave. The orders of the personnel officer of the respondent factory ordering that the name of the claimant may be struck off the rolls of the respondent company under article 27(4) of the certified standing orders because he had been absent without leave for more than eight days are given on the report Exhibit R/19 of the Time-keeper. All these documents have been proved by the time-keeper of the respondent as well as by their personnel officer who have appeared as witnesses on behalf of the management. Shri Sukhan claimant has examined himself as his own witness. His statement is not trustworthy. At one place he states that he gave to the management an application for leave accompanied by a medical certificate when he reported for duty on 8th October, 1966. At another place he states that he did not give these documents to the management but gave them to his union who produced them in the conciliation proceedings. In his statement he does not deny that his village is only about a mile from the respondent factory. He admits that he has not rented any residential accommodation at Faridabad nor any such accommodation has been provided to him by the management. He states that generally after the day's work he went to his village but sometimes he also stayed back at Faridabad with some colleague of his. He admits that he sent only one application for leave to the management and that was only for one day and was sent on 26th September, 1966 or 27th September, 1966. He is insured under the E.S.I. scheme and yet he does not get himself treated from the E.S.I. doctor. He deposes that he got himself treated from a Hakim residing in a village some four or five miles from the place where he was lying ill. I have not at all been impressed by the testimony of Shri Sukhan and I am not satisfied that he was in fact ill. In any case he did not send any application for leave or medical certificate to the management. His absence without leave was for a fortnight that is for

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more than eight days, the period mentioned in article 27(4) of the management's certified standing orders. The management were, therefore, justified in striking of his name from their rolls on the expiry of eight days of unauthorised absence. Article 27(4) provides that if an employee remains absent without leave for more than eight days, he shall be deemed to have left the service of the respondent factory and the management could terminate his services at the end of more than eight days unauthorised absence. There is nothing on the record that the action of the management is mala fide. In these circumstances I decide issue No. 2 in favour of the management and hold that the termination of the services of Shri Sukhan claimant was justified and in order. The claimant is not entitled to any relief in this regard. There will be no order as to costs in this case.

This award is submitted to the Government of Haryana, Department of Labour as required under section 15 of the Industrial Disputes Act, 1947.

Dated 1st June, 1967.

HANS RAJ GUPTA,
Presiding Officer,
Labour Court, Rohtak.

No. 5009-3Lab-67/17153. In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and management of M/s Jain Engineering Works, Railway Road, Gurgaon.

BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER, LABOUR COURT,
ROHTAK

REFERENCE No. 30 OF 1967

Between

THE WORKMEN AND THE MANAGEMENT OF M/S JAIN ENGINEERING WORKS,
RAILWAY ROAD, GURGAON

Present :—

Shri Daya Singh, claimant with Shri C. B. Kaushik on behalf of the workmen.
Shri Shadi Lal Jain, partner of the respondent concern.

AWARD

This is a reference by the State Government of Haryana under section 10(1)(c) of the Industrial Disputes Act, 1947, relating to an industrial dispute between the workmen and the management of M/s Jain Engineering Works, Railway Road, Gurgaon. The reference has been published in the State Gazette as notification No. 142-SF-III-Lab-67/, dated 21st March, 1967, and the dispute referred for adjudication to this court has been formulated by the Government in these terms :—

Whether the termination of services of Shri Daya Singh is justified and in order ?
If not, to what relief he is entitled ?

Usual notices were issued to the parties and in response thereto the workmen filed their statement of claim and the respondent management filed their written statement denying the claim of the workmen. The workmen's case is that the claimant Shri Daya Singh was employed by the respondent management as a mistry on a permanent basis with effect from 21st October, 1966. It has been pleaded that he met with an accident in the course of his duties on 9th December, 1966, as a result of which he remained admitted in the Civil Hospital, Gurgaon, and ultimately reported for duty to the management on 19th January, 1967, on becoming fit for duty. It is stated that the claimant gave an application to the management on 19th January, 1967, for leave for the period 9th December, 1966 to 17th January, 1967, and the same was accompanied by a medical certificate from the Senior Medical Officer, Civil Hospital, Gurgaon, and in this certificate it had been certified that the claimant remained admitted in the Hospital an account of his injury sustained on 9th December, 1966, for the period 9th December, 1966 to 23rd December, 1966 and was recommended rest thereafter till 17th January, 1967. It is stated that the management did not give him any duty on 19th January, 1967, but on the other hand wrongly dismissed him from service with effect from 20th January, 1967, by a letter of that date received by the claimant on 21st January, 1967. It has, therefore been pleaded that the claimant is entitled to re-instatement by the management with full back wages and continuity of service.

The respondent management in their written statement have pleaded that the claimant Shri Daya Singh joined their service on 21st October, 1966, as a temporary mistry and his services were terminated by them with effect from 20th January, 1967. The reason for the termination of services of the claimant is stated by the management in their written statement as follows :—

"That the worker was employed on temporary basis as shown and proved by entries in attendance register, wage register and wage slip."

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Although the management do not say so in their written statement, their case as made out at the time of evidence is that the claimant had been employed by them for a fixed period of three months from 21st October, 1966.

The following issue was framed in the case :—

Whether the termination of services of Shri Daya Singh Mistry is justified and in order? If not, to what relief is he entitled?

Ex. R/1 is a copy of a letter, dated 20th January, 1967, issued by the management to Shri Daya Singh claimant. In this letter the management have stated as follows :—

“You are hereby informed that we appointed you on temporary basis for three months as from 21st October, 1966. Since your work is not found satisfactory hence you are dismissed forthwith.”

Ex. R/2 is another letter, dated 6th February, 1967, stated to have been issued by the management to the claimant Shri Daya Singh. The claimant denies that he ever received this letter from the management. The management have produced a postal certificate to show that they posted this letter to the claimant. I am, therefore, inclined to believe that this letter also was duly received by the claimant Shri Daya Singh. In this letter the management state as follows :—

“In connection with our letter, dated 20th ultimo, we may clarify that the word ‘dismissed’ in the fourth line is used in the sense that your services are terminated and hence dispensed with.”

Excepting the bald statement of Shri Shadi Lal Jain on behalf of the management that the claimant Shri Daya Singh was employed for a fixed period of three months with effect from 21st October, 1966, there is absolutely no other evidence oral or documentary produced by the management to prove that the claimant was employed by the management for a period of three months only. In the salary register and the wage slip produced by the management it is nowhere stated that the claimant had been employed for a period of three months only. If the claimant had been employed for a period of three months only, there was no necessity of the management in saying in their letter, dated 20th January, 1967, Ex. R/1 that he was being dismissed because his work had been unsatisfactory. It is difficult for me to believe that the management did not understand the meaning of the word “dismissed” used in their letter, dated 20th January, 1967. The clarification stated to have been made by them in their letter, dated 6th March, 1967, Ex. R/2 is clearly an after thought when the claimant through his union served the demand notice dated 20th January, 1967, on the management challenging his dismissal by them. Copies of this demand notice had also been endorsed by the claimant’s union to the Conciliation Officer, Faridabad and to the Labour Commissioner, Haryana, Chandigarh. Copy of this demand notice has been received in these proceedings from the Government with their order of reference. No letter of appointment issued to the claimant has been produced. The claimant states that the management did not give him any letter of appointment. Shri Shadi Lal Jain in his testimony before this Court on behalf of the management states that he does not remember whether at the time of appointment of Shri Daya Singh in their factory in October, 1966, any appointment letter was issued to him or not. This is a very strange statement from a person who is pursuing the proceedings in this case on behalf of the management. This gentleman has stated in his testimony that the appointment of Shri Daya Singh claimant was made by him at his shop at Delhi when Shri Daya Singh came to him with two gentlemen Sarvshri Anant Ram and Darshan Singh who were known to him (Shri Shadi Lal Jain). He states that the appointment was made verbally at Delhi in the presence of those two persons. If those two persons were actually present when the appointment was made and the claimant was appointed for a fixed period of three months only, there was nothing to debar the management from producing those two persons as witnesses on their behalf to prove their version that the claimant had been appointed for a fixed period of three months only with effect from 21st October, 1966. The claimant Shri Daya Singh has stated on oath before this Court as a witness on behalf of the workmen that he was appointed on a permanent basis and not either as a temporary employee or for a fixed term of three months. I, therefore, find that the version of the management that the claimant Shri Daya Singh was appointed for a fixed period of three months from 21st October, 1966, is not correct.

The next question is whether the claimant was appointed as a permanent hand or only as a temporary worker. A workman is employed as a temporary worker on a job which by its very nature is of a temporary character. There is no evidence on the record that the work of mistry on which Shri Daya Singh claimant was employed was of a temporary nature only. Shri Shadi Lal Jain in his testimony before this Court has admitted that in August, 1966, they had only four workmen in their factory and they were all permanent. He has further admitted that in September, 1966, they had eight workmen in their factory and none of them was temporary. This shows that the management recruited four permanent

workmen at the end of August, 1966 besides the four permanent workmen they already had during that month. According to him in October, 1966 they had ten workmen and out of them only Shri Daya Singh had been shown as temporary. Similarly in November and December, 1966 out of the nine workmen employed in each of these two months, only Shri Daya Singh claimant had been shown as temporary. In their written statement the management had also stated that their attendance register would prove that Shri Daya Singh was employed as a temporary worker only. No attendance registers of the management have been produced in these proceedings and this would naturally raise a presumption against the management that if these attendance registers had been produced they would go against them. It is true that in the salary register under the column designation the claimant Shri Daya Singh has been described as a temporary turner and fitter. The word temporary can be added at any time the management so desire. In the salary register produced by the management against no other employee the word temporary is written and I am, therefore, inclined to believe that the management have tried to improve their record, after the claimant had been injured while on duty in their factory and the management were apprehending that they would have to pay him compensation under the Workmen's Compensation Act and his wages for the period he was not on duty due to the injury sustained by him and after an industrial dispute was raised challenging his dismissal by the management. As regards the wage slip for December, 1966 (Ex. R/8), this wage slip shows that it was issued to the claimant on 1st January, 1967 long after the claimant had sustained the injury and had been admitted into the hospital for it. It is not understood why this particular wage slip prepared at a time when the claimant was still under treatment for his injury and not attending the factory was retained by the management themselves and not handed over to the claimant when he received his payment on 7th January, 1967 and thumb-marked it. To me the inference is obvious that the management wanted to create evidence to show that the claimant was only a temporary worker for in the wage slip they have described him as temporary turner and fitter. It was argued with some force by the representative of the workmen that the claimant who did not know English never knew what the management wrote in this wage slip. If the practice with the respondent management is to retain the wage slip of the workmen with them, then they should have also produced the wage slips relating to the claimant for the months of October, 1966 and November, 1966 which were issued to him before his injury and admission into the hospital. That would raise a presumption against the management that the claimant was not described as a temporary worker in those wage slips. Excepting the bald statement of Shri Shadi Lal Jain, no independent evidence whatsoever has been produced by the management to prove that the claimant Shri Daya Singh was employed by them only as a temporary worker. The claimant has stated in his testimony that Shri Shadi Lal Jain had a factory at Delhi also and before joining the present factory at Gurgaon, he had served in the Delhi factory under Shri Shadi Lal Jain on two occasions for a period of about six months on each occasion. Shri Shadi Lal Jain does not deny that the claimant served in his Delhi factory previous to his joining the factory at Gurgaon. As usual in his entire cross-examination he has excused himself by saying that he does not remember if Shri Daya Singh claimant was employed in his Delhi factory or not. I have not at all been impressed by the testimony of Shri Shadi Lal Jain and the impression he has given to me is that in answering the questions in cross-examination or by the Court he has been suppressing the truth. It is regrettable that an educated man like him should have made the kind of statement he has made. I am producing below a part of his statement which would in itself show that he has not been telling the truth :—

"We used to have a factory at Delhi but I do not remember if Shri Daya Singh claimant was employed there or not. I do not remember whether at the time of appointment of Shri Daya Singh in our factory in October, 1966 any appointment letter was issued to him or not. I do not remember if the claimant Shri Daya Singh sustained an injury in an accident in our factory on 9th December, 1966. I do not remember whether Shri Daya Singh claimant handed over to me on 19th January, 1967 an application accompanied by a medical certificate."

He was shown copy of the application, dated 19th January, 1967 and the medical certificate of fitness and was asked if after reading them he could say whether the claimant had given the originals to him. He again said that he could not remember that. Then the representative of the workmen confronted him with the office copy of the application, dated 19th January, 1967 of the claimant and he had to admit that it bore his signatures on that copy in token of his having received the original application and the medical fitness certificate accompanying it. It is difficult to believe that he did not know that the claimant cut his finger in his factory on 19th December, 1966 and had to be admitted into the Civil Hospital for that injury. The claimant has deposed on oath that Shri Shadi Lal Jain himself sent him to the Hospital with his manager and his own son. I have no reason to disbelieve the statement of the claimant. It is, therefore, not possible to hold that Shri Shadi Lal Jain

is telling the truth in deposing that the claimant Shri Daya Singh was appointed by him only as a temporary worker and not on a permanent basis. Considering all the facts and circumstances of this case, I am inclined to believe the version of the claimant that he was appointed by the management as a permanent workman and not as a temporary hand. The letter dated 20th January, 1967 (Ex. R/1) shows that the claimant had been dismissed from the service on the allegation that his work had been unsatisfactory. Even a temporary workman cannot be dismissed for a misconduct unless he is given show cause notice and an opportunity to give his explanation. It is admitted by Shri Shadi Lal Jain that in the present case no charge sheet was issued to the claimant Shri Daya Singh or any enquiry was held against him. In the present proceedings no evidence at all has been led to show that the work of the claimant was unsatisfactory. The claimant joined service on 21st October, 1966 and was admitted in the Hospital on 9th December, 1966 for the injury sustained by him while doing his duty. Thereafter he never came to duty because he had been under treatment in the Hospital or on rest. No charge of his work being unsatisfactory was ever made when he was actually on duty in the respondent factory during the period 21st October, 1966 to 9th December, 1966 or during the period he was under treatment or on rest from 9th December, 1966 to 17th January, 1967. It appears that the idea of the work of the claimant being unsatisfactory has occurred to the management and the necessity of dismissing him from service has been felt by them only when the claimant reported for resuming duty on 19th January, 1967 after he had been cured of the injury and declared fit by the medical authorities. In an application given on 19th January, 1967, the claimant has specifically demanded his wages for the period 9th December, 1966 to 17th January, 1967 during which period he was not on duty due to the injury sustained by him in the respondent factory. The management must have also apprehended that the claimant would demand from them compensation under the workmen's Compensation Act. To forestall these claims they have invented the theory of his work being not satisfactory and have dismissed him from service on 20th January, 1967. If the action of the management was bonafide, then action should have been taken much earlier and not immediately after the claimant came to resume duty. In these circumstances I am fully satisfied that the termination of service of Shri Daya Singh Mistry by the management of M/s Jain Engineering Works, Railway Road, Gurgaon is not justified and in order. The claimant Shri Daya Singh is entitled to be reinstatement by them and is also entitled to full back wages from 20th January, 1967 to the date he is actually reinstated by the management. He is entitled to be reinstated with continuity of service. The extracts from the salary register Ex. R/5 to R/7, show that the claimant was employed on a monthly wage of Rs 175 (Rs one hundred and seventy-five only). The claimant would, therefore, be entitled to back wages at this rate. Shri Daya Singh claimant would report for duty to the management within fifteen days from the date on which this award becomes enforceable under section 17A of the Industrial Disputes Act, 1947. The management would also pay a sum of Rs 25 (Rs Twenty-five only) to the claimant as his costs of these proceedings.

This award is submitted to the Government of Haryana, Department of Labour as required under section 15 of the Industrial Disputes Act, 1947.

HANS RAJ GUPTA,
Presiding Officer,
Labour Court, Rohtak.

Dated 2nd June, 1967.

No. 5003-3Lab-67/17155.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and management of M/s. Eicher Tractors (India) Ltd. Industrial Area, Faridabad.

BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER, LABOUR COURT,
ROHTAK

Reference No. 50 of 1966

between

THE WORKMEN AND THE MANAGEMENT OF M/S. EICHER TRACTORS
(INDIA) LTD., INDUSTRIAL AREA, FARIDABAD.

Present.—

Shri Suresh Chander Sharma claimant in person with Shri G. C. Joshi, General Secretary, I.N.T.U.C., Yamuna Nagar and Shri Ashok Kumar, Secretary, General Engineering Mazdoor Union, Faridabad on behalf of the workmen.

Shri H.N. Singh and Shri S.L. Gupta on behalf of the management.

AWARD

An industrial dispute having arisen between the workmen and the management of M/s. Eicher Tractors (India) Ltd., Industrial Area, Faridabad, the Government of Haryana by means of their gazette notification No. 20-SF-III-Lab-66/961, dated 18th November,

1966, and in exercise of the powers conferred on them by section 10(1)(c) of the Industrial Disputes Act, 1947, have referred to this Court for adjudication the matter mentioned below:—

Whether the dismissal of Shri Suresh Chander Sharma, Clerk, was justified and in order? If not, to what relief / exact compensation he is entitled?

Usual notices were issued to the parties and in response thereto the workmen filed a statement of their claim and the respondent management filed their written statement denying the claim of the workmen. The management raised certain preliminary objections also.

Issues were framed in the case and evidence of the parties was recorded and arguments heard on the first three issues which were treated as preliminary issues. By my order, dated 10th April, 1967, the preliminary issues were decided in favour of the workmen and against the management and the case was adjournment for recording evidence on the issues on merits. But on the date on which evidence was to be recorded on those issues, the parties arrived at a settlement and their authorised representatives and Shri Suresh Chander Sharma, the claimant, made statements before this Court on 25th May, 1967 containing the terms of that settlement. These statements are reproduced below:—

Statement of Shri S.L. Gupta on behalf of the management on S.A.—The parties have arrived at a settlement. The workmen give up the claim for reinstatement of Shri Suresh Chander Sharma. The management would pay to Shri Suresh Chander Sharma a lump sum of Rs 1,950 (Rs one thousand nine hundred and fifty only) on account of back wages, bonus and leave wages and all other financial claims, if any, arising out of his employment with the management. On payment of this amount, no claim of any sort of Shri Suresh Chander Sharma will remain against the management. The amount of Rs 1,950 will be paid within one month from today. An award may be given accordingly.

Statement of Shri Ashok Kumar on behalf of the workmen on S.A.—I have heard the statement made by Shri S.L. Gupta above on behalf of the management. It is correct. An award may be given accordingly.

Statement of Shri Suresh Chander Sharma on S.A.—I have heard the statements made by Shri S.L. Gupta on behalf of the management and Shri Ashok Kumar on behalf of the workmen. These statements are correct. An award may be made accordingly.

I make this award in terms of the aforesaid statements of the claimant Shri Suresh Chander Sharma and the authorised representatives of the management and the workmen. The claimant Shri Suresh Chander Sharma will not be entitled to reinstatement by the management. The management would, however, pay to him a lump sum of Rs 1,950 (Rs one thousand nine hundred and fifty only) on account of back wages, bonus, leave wages and all other financial claims arising out of his employment with the management. On payment of this amount, no claim of any sort of Shri Suresh Chander Sharma will remain against the management. The amount of Rs 1,950 will be paid by 24th June, 1967.

The parties will bear their own costs of these proceedings.

This award is submitted to the Government of Haryana, Department of Labour, as required under section 15 of the Industrial Disputes Act, 1947.

The 1st June, 1967.

HANS RAJ GUPTA
Presiding Officer,
Labour Court, Rohtak.

No. 5004-3Lab-67/17157.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Escorts Ltd. (Plant No. 1), Mathura Road, Faridabad.

BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER,
LABOUR COURT, ROHTAK

REFERENCE No. 51 OF 1966

between

THE WORKMEN AND THE MANAGEMENT OF M/S ESCORTS
LIMITED (PLANT No. 1), MATHURA ROAD, FARIDABAD

Present—

Nemo for the workmen.

Shri Harish Madan on behalf of the management. He, however, does not hold any power of attorney.

AWARD

An industrial dispute having arisen between the workmen and the management of M/s Escorts Limited (Plant No. 1), Mathura Road, Faridabad, the Government of Haryana by means of their gazette Notification No. 17-SF-III-Lab-66/909, dated 17th November, 1966, and in exercise of the powers conferred on them by section 10(1)(c) of the Industrial Disputes Act, 1947, have referred to this Court for adjudication the matter mentioned below:—

Whether the termination of services of Shri Ajit Singh is justified and in order ?

If not, to what relief he is entitled ?

Usual notices were issued to the parties and in response thereto the workmen filed a statement of claim and the respondent management filed their written statement denying the claim of the workmen. On behalf of the workmen it was pleaded that the allegations contained in the charge-sheet do not amount to any misconduct under the certified standing orders applicable to the respondent concern. It was further pleaded that the order of dismissal in this case has not been passed by a competent authority. It was also pleaded that the claimant Shri Ajit Singh has been victimised by the management on account of his trade union activities.

On behalf of the management the above pleas raised by the workmen were vehemently denied. It was pleaded the claimant Shri Ajit Singh had been dismissed by the management as a result of a proper and fair enquiry held against him and therefore, this Court could not interfere in the order of dismissal passed against the claimant.

Issues were framed in the case and the evidence of both the parties was recorded on those issues. The case was fixed for arguments of the parties at Ballabgarh on 31st May, 1967. On 30th May, 1967, Shri Darshan Singh, Secretary of the Escorts Employees Union, Faridabad, presented himself before this Court at Ballabgarh and made a statement to the effect that the claimant Shri Ajit Singh has received from the management a lump sum of Rs. 2,870 in full and final settlement of the claim and that the reference having become infructuous may be filed. The management have sent a letter, dated 31st May, 1967, confirming the above position. In these circumstances I file this reference. There will be no order as to costs of these proceedings.

This award be submitted to the Government of Haryana, Department of Labour, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 1st June, 1967.

HANS RAJ GUPTA,

Presiding Officer,

Labour Court, Rohtak.

S.L. PURI, Under Secy.